

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**ALLAN D. SCHUBERT, #30850-064**

**PLAINTIFF**

**vs.**

**CIVIL ACTION No.: 3:22-CV-321-HTW-LGI**

**CORRECTIONAL OFFICER KRYSTAL AVERY**

**DEFENDANT**

**ORDER**

BEFORE THIS COURT is the Motion to Alter or Amend Judgment or in the Alternative to Supplement Pleadings [Docket no. 41], filed by Plaintiff Allan D. Schubert. On December 8, 2023, this court entered an Order Adopting the Report and Recommendation of United States Magistrate Judge LaKeysha Greer Isaac [Doc. 37]. That same day, a final judgment was entered in the case and the case was finally dismissed. [Doc. 38]. On December 28, 2023, Schubert filed a Notice of Appeal with the United States Court of Appeals for the Fifth Circuit. [Doc 39]. On January 9, 2024, Schubert filed the subject Motion to Alter or Amend the Judgment or in the Alternative, Motion to Supplement Pleadings in the District Court. [Doc 41].

Schubert's Motion [Doc 41] was filed after he filed a Notice of Appeal to the Fifth Circuit. Once the Notice of Appeal was filed, this district court was divested of the authority to grant Plaintiff's motion. Even if the district court had jurisdiction to grant the Motion to Alter or Amend Judgment, no new evidence has been presented that would require the court to be inclined to grant the Motion. Schubert's Motion [Doc 41] must be DENIED.

**SO ORDERED this the 18th day of April, 2024.**

**/s/HENRY T. WINGATE**  
**UNITED STATES DISTRICT COURT JUDGE**